

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission On Its Own Motion)	
)	
Investigation Concerning Illinois Bell Telephone)	Docket No. 01-0662
Company's compliance with Section 271 of the)	
Telecommunications Act of 1996)	

AMERITECH ILLINOIS' RESPONSE TO STAFF'S MOTION TO STRIKE

Illinois Bell Telephone Company (“Ameritech Illinois” or the “Company”), by its attorneys, hereby files its Response to the Motion to Strike a portion of the testimony of Barbara A. Smith in the captioned proceeding.

1. As Staff recites in its Motion, Staff is moving to strike one sentence in the Surrebuttal testimony of Ms. Smith. (Am. Ill. Ex. 10.2, pp. 8-9, lines 150-52). In that portion of her testimony, Ms. Smith is responding to the Rebuttal testimony of Staff witness Mr. Koch, who contended that there was no reason for Ameritech Illinois to update its cost models once they have been found to be TELRIC-compliant. (Staff Ex. 23.0, p. 27, lines 506-20). As part of her explanation for model updates, Ms. Smith explained that one of the objectives of her organization is to revise and refine its models so as to make them easier to audit and verify by the staffs of regulatory commissions and other interested third parties. It is in that context that she made the statement to which Staff objects: i.e., that “Commission staffs in other states that have reviewed [Ameritech’s LOOPCAT cost] model and have made positive comments regarding its ease of use and auditability.”

2. Staff contends that this statement is hearsay and is not admissible under Section 200.610 of the Commission’s rules. That rule provides that evidence not admissible under the rules applicable in civil cases may be admissible in Commission proceedings “. . . if it is of a

type commonly relied on by reasonably prudent persons in the conduct of their affairs.” Staff contends that this evidence would not be relied on by a prudent person. (Staff Motion, p. 3).

3. Staff is incorrect. As a Director in the service cost organization, Ms. Smith is responsible for developing service cost policy and service cost methodologies for use in regulatory proceedings. (Am. Ill. Ex. 10.0, p. 1; Schedule BAS-2, pp. 2-3). In that capacity, Ms. Smith works with Commission staffs and appears before various state Commissions with respect to service cost issues. One of the factors which her organization considers when determining whether to update cost models is whether Commission staffs will find them easier to work with.¹ In assessing a new model, Ms. Smith would solicit and consider the perspectives of Commission staffs once they have worked with that model. Thus, the statement to which Staff is objecting is precisely the kind of information that a prudent person in Ms. Smith’s position would rely on in the “conduct of [her] affairs” -- i.e., the management of the cost study process. These comments also represent the kind of information which Ms. Smith would rely on in developing her opinion that the updated cost models which her organization has developed are easier to use and are more auditable.

4. Staff attempts to analogize Ms. Smith’s testimony to a contractor who, having been asked for references from satisfied customers, states that they exist but refuses to disclosed their names or the states in which they reside. (Staff Motion, p. 3). This analogy misses the mark. Staff had every opportunity to ask Ms. Smith during cross-examination for the names and states of the Commission staff to whom she referred. Staff elected not to do so. At no time did

¹ As Ms. Smith explained in her testimony and during cross-examination, ease of use and auditability by interested outside parties is an important consideration in evaluating service cost models. (Am. Ill. Ex. 10.2, p. 8-9; transcript citations not available).

Ms. Smith refuse to disclose this information. Moreover, Ms. Smith's testimony was not presented to persuade the Commission that it should merely accept the new models without further analysis or review (i.e., in Staff's terms, "to hire the contractor"). It was simply presented in support of Ms. Smith's testimony that cost models are updated, inter alia, to improve their functionality. The question whether the Illinois Commission Staff will agree or disagree that the new models are easier to use will be the subject of other proceedings, when the models are introduced in support of rate proposals.

WHEREFORE, in view of the foregoing, Staff's Motion to Strike should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Louise A. Sunderland, an attorney, certify that a copy of the foregoing **AMERITECH ILLINOIS' RESPONSE TO STAFF'S MOTION TO STRIKE** was served on the following parties by electronic transmission on June 19, 2002.

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